Lauec, 14. 1995 UII:48AM

STATE OF ARIZONA FILED

STATE OF ARIZONA

DEC 1 4 1995

DEPARTMENT OF INSURANCE

DEPARTMENT OF INSURANCE

In the Matter of:

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

25

No. 95-140

SAFEWAY INSURANCE COMPANY,

CONSENT ORDER

Respondent.

The Director of the Arizona Department of Insurance ("Director") issued a Notice of Hearing on August 9, 1995, alleging violations of A.R.S. Title 20 committed by Respondent. Insurance Company, NAIC No. 12521, received a copy of the Notice of Hearing and filed an untimely answer on September 15, 1995. Safeway has been advised of and waives its right to a hearing in this matter.

Safeway admits the following Findings of Fact are true and consents to the entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

- l. Safeway is authorized to transact property and casualty insurance in the State of Arizona pursuant to a Certificate of Authority issued by the Director.
- On or about March 11, 1994, the Department concluded a Market Conduct Examination of Safeway ("Examination"). As a result of the examination, the Department issued a Report of Examination as of March 11, 1994 ("Report"). The Report contains recommendations made to bring Safeway into compliance with insurance statutes and regulations of the Department. The Examiners recommended that the Director hold a hearing to determine if cause exists to take

- 3. Safeway agreed to enter into a Consent Order because it wished to resolve the matter without formal adjudicative proceedings. On or about November 17, 1994, the Director issued a Consent Order, Docket No. 8606 ("Docket No. 8606"), ordering Safeway to comply within 60 days of the date Docket No. 8606 was issued. Sixty days from the date of Docekt No. 8606 was January 16, 1995. In Docket No. 8606 the Director found Safeway in violation of statutes and rules of the Department.
- 4. On or about January 17, 1995, the Department sent a letter to Safeway requesting compliance with Docket No. 8606. On February 7 and April 4, 1995, the Department re-sent the January 17 letter requesting compliance, with a hand-written note noting the date the request was resent. In addition, on April 11, 1995, the Department sent a final letter requesting compliance. The April 11 letter was followed by a phone call from Dean Ehler, Assistant Examiner with the Department.
- 5. On or about May 22, 1995, more then 4 months after the compliance deadline, Safeway submitted a response to requests from the Department in which it partially complied with Docket No. 8606.
- 6. Safeway failed to comply with paragraph 2 of Docket No. 8606 by failing to develop an action plan and by failing to submit an action plan within 60 days of the issuance of the Consent Order in Docket No. 8606.

- 7. Safeway failed to comply with paragraphs 3 and 4 of Docket No. 8606 within 60 days of the issuance of Docket No. 8606.
- 8. Past examinations performed by the Department have found Safeway to repeatedly be in violation of Department statutes and rules.
- 9. On or about January 7, 1991, the Department conducted an Examination of the Market Conduct ("1991 Exam") of Safeway. The 1991 Exam found that Respondent had not completely complied with two previous orders issued by the Director, namely, the January 8, 1987 Market Conduct Examination Consent Order, Docket No. 6251 ("Docket No. 6251") and the August 22, 1989 Market Conduct Examination Consent Order, Docket No. 6957 ("Docket No. 6957"). In addition, Safeway failed to respond to Subpoenas issued by the Director on September 7, 1990.
- 10. In 1989 the Department conducted a Market Conduct Examination ("1989 Exam"). The purpose of the 1989 Exam was to determine if Safeway was in compliance with Docket No. 6251. The result of the 1989 Exam was the issuance of Docket No. 6957 in which Safeway was fined \$50,000 for failing to comply with Docket No. 6251.
- 11. On or about June 19, 1991, in Docket No. 7452, the Department ordered Safeway to Cease and Desist from failing to comply with orders issued by the Director and was fined \$35,000.

CONCLUSIONS OF LAW

1. The Director has jurisdiction over this matter.

- 2. The conduct described above constitutes violation of A.R.S. § 20-220(A)(2) in that Safeway knowingly failed to comply with a lawful rule, regulation or order of the Director.
- 3. The conduct described above constitutes violations of A.R.S. § 20-220(A)(5) in that Safeway knowingly failed to produce its accounts, records, and files for examination by the Director if required.
- 4. Grounds exist for the Director to suspend, revoke or refuse to renew Safeway's certificate of authority and impose a civil penalty upon Safeway pursuant to A.R.S. § 20-220(B).

ORDER

NOW, THEREFORE, IT IS ORDERED:

- 1. Safeway shall cease and desist from violating Orders of the Director and shall produce all accounts, records and files for examination as the Director may require.
- 2. On or before December 14, 1995, Safeway shall develop and submit an action plan, acceptable to the Department, to provide ongoing training to ensure that all claims personnel comply with all provisions of A.A.C. R20-6-801 and A.R.S. §§20-461 and 20-462.
- 3. On or before December 14, 1995, Safeway shall pay a civil penalty of Thirty-five Thousand Dollars (\$35,000.00) to the Director for remission to the State Treasurer for deposit in the State General Fund in accordance with A.R.S. § 20-220(B).
- 4. The Department shall be permitted, through authorized representative, to verify that Safeway has fully complied with all

requirements of this Order, and the Director may separately order Safeway to comply.

5. The hearing set for December 14, 1995, at 9:00 a.m. is vacated by entry of this Order.

DATED in Phoenix, Arizona this _____ day of _____ , 1995.

CHRIS HERSTAM, Director Arizona Department of Insurance

CONSENT TO ORDER

- 1. Respondent Safeway Insurance Company ("Safeway") has reviewed the attached Order.
- 2. Safeway is aware of its right to a hearing at which hearing Safeway may be represented by counsel, present evidence and cross-examine witnesses. Safeway irrevocably waives its right both to demand a public hearing and to seek judicial review of this Consent Order.
- 3. Safeway admits the jurisdiction of the Director of Insurance, State of Arizona, and consent to the entry of this Order.
- 4. Safeway states that no promise of any kind or nature has been made to induce it to enter into this Order and that it has entered this Order voluntarily.
- 5. Safeway acknowledges that the acceptance of this Order by the Director of Insurance, State of Arizona, is solely to settle this matter against it and does not preclude any other agency or office of this state or subdivision from instituting other civil or criminal proceedings as may be appropriate now or in the future.

Robert Bordenan bolds the office of Executive Vice 1 President of Safeway, and is authorized to enter into this Order on 2 its behalf. Date: /2 Bordeman Executive Vice President 5 6 COPY of the foregoing mailed this day of ______, 1995, to: Gerrie L. Switzer Assistant Attorney General 1275 West Washington, Room 259 Phoenix, Arizona 85007 J. Michael Low Kathy A. Steadman LOW & CHILDERS, P.C. 121 2999 North 44th Street, Suite 250 13 Phoenix, Arizona 85018 14 Charles R. Cohen, Deputy Director Gregory Y. Harris, Executive Assistant Director 15 Erin Riug. Executive Assistant to Director Saul Saulson, Supervisor 16 Bernard Hill Supervisor Deloris Williamson, Assistant Director Gary Torticill, Assistant Director and Chief Financial Examiner 18 Catherine O'Neil, Assistant Director Arizona Department of Insurance 2910 North 44th Street, Suite 210 Phoenix, Arizona 85018 20 21 22 23 24 25 26

Y GEN-LUND PRUI PHA NU. BUZ 54 (SII NU, NO. 2503F. T.

SEN Dec. 14. 1995 VEII: 49AMIN